

U.S.S.N. 09/699,003

Filed: October 26, 2000

AMENDMENT AND RESPONSE TO OFFICE ACTION

Remarks

Rejection Under 35 U.S.C. § 112, second paragraph

Claims 1-6 and 8-10 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection to the extent that it is applied to the claims as amended.

Claim 1 as amended defines a method for inducing an immune response against transformed, infected or diseased tissue in a patient containing the steps of selectively removing soluble cytokine receptor molecules from blood, plasma, or one or more components of the blood of the patient until the transformed, infected, or diseased tissue is reduced in size or is inflamed or other positive indication is observed. Support for the amendment can be found in the specification at least at page 3, lines 5-14. Claim 1 as amended states that the immune response occurs in the patient and that the cytokine receptor molecules are selectively removed from blood, plasma, or one or more components of the blood of the patient. Claim 1, as amended, is definite. Therefore, claims 2-6 and 8-10 are definite.

Rejection Under 35 U.S.C. § 102

Claims 12, 16, 17 and 20 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 5,919,898 to Nakatani, et al., ("Nakatani"). Applicants respectfully traverse this rejection.

For a rejection of claims to be properly founded under 35 U.S.C. § 102, it must be established that a prior art reference discloses each and every element of the claims. *Hybritech Inc. v Monoclonal Antibodies Inc.*, 231 USPQ 81 (Fed. Cir. 1986), cert. denied, 480 US 947

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(1987); *Scripps Clinic & Research Found v. Genentech Inc.*, 18 USPQ2d 1001 (Fed. Cir. 1991).

Nakatani does not disclose each and every element of the claims. Nakatani discloses removal of interleukins to reduce inflammation to treat diseases having a high concentration of interleukins. In contrast to Nakatani, the present application discloses removal of cytokine receptors to induce an immune response. This is the opposite of what is claimed. Therefore Nakatani does not disclose or suggest removal of cytokine receptor molecules to induce an immune response and claims 12, 16, 17 and 20 are not anticipated by Nakatani.

Rejection Under 35 U.S.C. § 103

Claims 18 and 19 were rejected under 35 U.S.C. § 103(a) as unpatentable over Nakatani, in view of U.S. Patent No. 5,817,528 to Bohm ("Bohm"). Applicants respectfully traverse this rejection.

Claims are not *prima facie* obvious if the primary references do not suggest all elements of the claimed invention and the prior art does not suggest the modifications that would bring the primary references into conformity with the application claims (*In re Fritch*, 23 U.S.P.Q.2d, 1780 (Fed. Cir. 1992). *In re Laskowski*, 871 F.2d 115 (Fed. Cir. 1989)).

As discussed above Nakatani discloses removal of interleukins to reduce inflammation, **not removal of cytokine receptors to induce inflammation.**

Bohm discloses a general method for isolating materials from blood using a column for use in removing a substance from blood. Bohm does not disclose or suggest removal of cytokine receptors, nor from a patient.

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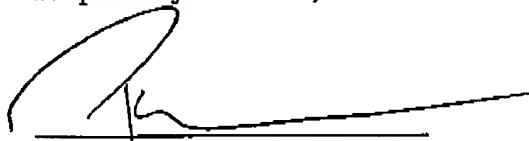
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Accordingly, neither Bohm nor Nakatani, alone or in combination, disclose or suggest each and every element of the claims. Therefore, claims 18 and 19 are not obvious over Nakatani in view of Bohm.

Allowance of claims 1-6, 8-10, 12 and 16-20 is respectfully solicited.

Respectfully submitted,



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